

Technical Work Session Summary  
Spokane Tribe - NMFS

Spokane, Washington  
August 15, 2000

Prepared by: G. S. Sims

Participants: Mary Verner, Howard Funke, Louie Wynne, Bryan Flett, Ric Ilgenfritz, G. S. Sims

The following is a summary of issues/items anticipated to be incorporated in policy-level discussion between the Spokane Business Council and the federal agencies. The Council assumes the following agencies will be represented the policy-level meeting: BLM, BoR, BPA, CoE, EPA, FS, FWS, and NMFS. (*Note: This summary is taken from the more narrative notes, found at the end of this document. I have tried to relate the various issues with their respective H-a conclusion that may be faulty. Therefore, you are encouraged to read the attached narrative for context and detail.*)

The policy-level meeting is scheduled for September 25 in the Tribal Chambers at Wellpinit, Washington.

## Hydro

- The tribe also looks to the development of a MCA addressing river operations. This would address flow management, flood control actions, purchasing Canadian water. The CoE was supposed to send a letter to the tribe outlining the commitment but HF has only received a draft.
- There is a concern that the way the draft All H Paper addresses the tribal role in review and participating in decisions about river operations. The Paper could be read to say that CRITFC/member tribes would be involved and not upper river tribes. (It was stressed by RI that the All H document is a draft and should be read as such. References such as the one cited indicates the federal agencies' commitment to involve the tribes in the river operations decision process-and such commitment is not limited to CRTIFC/member tribes.
- An addressing river operations and tribal involvement in management decisions is needed. The agreement could use the SOR as a beginning point, addressing such items as flow augmentation, spill, pulsing, water purchasing, etc., in order to address the greatest impacts suffered by the tribes.
  - The tribes are asking for an opportunity to be involved in the decision making process related the operation of the river system The tribes want an opportunity to share their concerns about the possible impacts of such decisions-and realize that system decisions may not ultimately coincide with tribal positions.
  - The tribes desire, therefore, is to have an opportunity to express their concerns and know what decisions are being made.
- There are serious questions by Spokane and other upriver tribes about why the impacts on them cannot be incorporated into the analysis of the various options

contemplated. Should not restrict such analysis on affects on listed fish only-need to also consider affects on tribes impacted by Grand Coulee operational decisions

#### Harvest

- There needs to be serious consideration and feasibility analysis of possible fish passage above Chief Joseph and Grand Coulee (it was emphasized several times during the meeting that the tribe has not given up on the issue of salmon above Grand Coulee).
- Harvest discussions/decisions seem to be restricted to lower river tribes-with no consideration given to Spokane Tribe.
- Although there are not anadromous fish above Chief Joe and Grand Coulee, the tribe has never given up on the prospect of having salmonids in the future.

#### Habitat

- There seems to be some level of support for anadromous projects, on some "spill over" to resident fish-without regard to other habitat, lake management, cultural resources management issues. All aspects of management under All H need to be addressed and assisted. (RI reminded the group that the All H Paper - and the BiOps - address listed species-not all species within the basin.)
- There are persistent concerns about water quality-within the river system, but also (and most especially) in Lake Roosevelt. Water quantity, toxicity, chemical contamination, etc. remain as significant issues to the tribes. There is concern that the federal agencies are inclined to defer water quality issues, and responses, to the states. The federal agencies carry the trust responsibility not the states.
- Blocked Area Management Plan, which is receiving more work from the UCUT member tribes, needs to be supported by the federal agencies.

#### Cultural Resources

- In all meetings (from White House level to technical sessions) the tribe has consistently put cultural resource issues on the table. It is the tribes understanding that the US agreed with the tribally identified issues and agreed they would be addressed and agreed to the development on a MOA on the "who, what, where, and when cultural resource requirements would be accomplished."
- It appears the federal agencies are distancing themselves on those commitments and therefore there is a need to get the MOA before the BiOp and All H processes are complete. There is current and ongoing damage to cultural resources as a result of the operations of Grand Coulee.
- There appears to be, on the part of the federal agencies, a lack of commitment to support tribal cultural resources efforts.
  - NHPA requires consultation with the THPO as projects are planned and developed-and this is not happening.
  - There have been meetings where the federal executives agree to a concept/process for the tribes to find out later that the technical staff state that complying with such commitments are not feasible. This leads to an increasing level of frustration on the part of the tribes. Both expressed concern that the All H does not adequately address cultural resources.

- Tribes have invested an incredible amount of time reviewing/participating in the SOR process (and before that the IDU).
  - The SOR essentially put off responses to cultural resources responsibilities to the future, on individual project level bases. However, the tribes were not involved in those future efforts-the agencies entered into programmatic MOU on cultural resources without tribal involvement.
  - Now it is "being tossed into the tribe's face" that the MOU is the agency response to cultural resources protection requirements (that time for tribal input-and possible change-is past). And that response is being applied to the All H Paper/process.
- The tribe does receive funding-originally to address cultural resources issues. However, because of ongoing emergency responses to impacted cultural resources virtually all the funds are used to protect exposed sites. The tribe has to respond in a virtual crisis mode, versus development of a program that allows for more comprehensive mapping, identification, and protection. Funding for that more complete program is needed.

#### Continued Collaboration and Consultation

- There needs to be some process for ongoing collaboration and communication. The tribe viewed the Columbia Basin Forum to be successful and believes it or some similar effort needs to continue.
- At a minimum, an agreement that addresses the protection of Spokane/Colville tribal interests and funding is needed. This may present an opportunity to develop a template for other tribes to use. It is the tribes' contentions that the Spokane and Colville tribes are the most impacted within the basin-and the Spokane Tribe not only lost all anadromous fish, but did not receive any impact funds.

#### Technical Assistance

- Funding for tribal technical participation in review of documents, plans, etc., and development of same is an ongoing problem. The tribes do not have the staff or financial resources to be able to fully participate in the processes requiring their attention. It is important for the agencies to respond to this aspect of technical assistance.

Appendix - Technical Work Session  
Spokane Tribe - NMFS

Spokane, Washington

August 15, 2000

Prepared by: G. S. Sims

Participants: Mary Verner, Howard Funke, Louie Wynne, Bryan Flett, Ric Ilgenfritz, G. S. Sims

After a description of G. Sims' role and activities and R. Ilgenfritz's responsibilities, Mary Verner opened the meeting by stating, for the record, that the tribal group has not had a chance to meet with the Spokane Tribal Council and so cannot say that all the issues discussed at this meeting will reflect all the concerns of the tribal government. She stated that the group is prepared to discuss the issues identified in the July 20 letter, which the tribal council did review, and those issues the group understands are a concern of the tribe.

Ric Ilgenfritz responded that he had assumed that the issues identified for future policy level meetings with the tribes would relate to those described in the notes of the tribal policy-level meetings documented in Volume 2 of the All H Paper. He said his review of the July 20 letter supported that assumption in that the issues raised in the letter were consistent with those documented in the All H Paper. He was hopeful that we would be able to frame the issues the tribe council wished to discuss and consult on, as well as identify what the next steps in the All H process should be.

Howard Funke, at Mary Verner's request summarized a number of tribal points:

- In all meetings (from White House level to technical sessions) the tribe has consistently put cultural resource issues on the table. It is the tribes understanding that the US agreed with the tribally identified issues and agreed they would be addressed and agreed to the development on a MOA on the "who, what, where, and when cultural resource requirements would be accomplished.'
- It appears the federal agencies are distancing themselves on those commitments and therefore there is a need to get the MOA before the BiOp and All H processes are complete. There is current and ongoing damage to cultural resources as a result of the operations of Grand Coulee.
- The tribe also looks to the development of a MOA addressing river operations. This would address flow management, flood control actions, purchasing Canadian water. The CoE was supposed to send a letter to the tribe outlining the commitment but HF has only received a draft.
- There is a concern that the way the draft All H Paper addresses the tribal role in review and participating in decisions about river operations. The Paper could be read to say that CRITFC/member tribes would be involved and not upper river tribes. (It was stressed by RI that the All H document is a draft and should be read as such. References such as the one cited indicates the federal agencies' commitment to involve the tribes in the river operations decision process-and such commitment is not limited to CRTIFC/member tribes.

- Funding for tribal technical participation in review of documents, plans, development of same is an ongoing problem. The tribes do not have the staff or financial resources to be able to fully participate in the processes requiring their attention. It is important for the agencies to respond to this aspect of technical assistance.
- There seems to be some level of support for anadromous projects, with some "spill over" to resident fish-without regard to other habitat, lake management, cultural resources management issues. All aspects of management under All H need to be addressed and assisted. (RI reminded the group that the All H Paper (and the BiOps) address listed species-not all species within the basin.
- There are persistent concerns about water quality-within the river system, but also (and most especially) in Lake Roosevelt. Water quantity, toxicity, chemical contamination, etc. remain as significant issues to the tribes. There is concern that the federal agencies are inclined to defer water quality issues, and responses, to the states. The federal agencies carry the trust responsibility not the states.
- Blocked Area Management Plan, which is receiving more work from the UCUT member tribes, needs to be supported by the federal agencies.
- There needs to be serious consideration and feasibility analysis of possible fish passage above Chief Joseph and Grand Coulee (it was emphasized several times during the meeting that the tribe has not given up on the issue of salmon above Grand Coulee).
- There needs to be some process for ongoing collaboration and communication. The tribe viewed the Columbia Basin Forum to be successful and believes it or some similar effort needs to continue.

Bryan Flett and Louie Wynne both expressed increasing levels of frustration concerning the apparent lack of commitment to support tribal cultural resources efforts. LW stated NHPA requires consultation with the THPO as projects are planned and developed-and this is not happening. BF stated that there have been meetings where the federal executives agree to a concept/process for the tribes to find out later that the technical-staff state that complying with such commitments are not feasible. This leads to an increasing level of frustration on the part of the tribes. Both expressed concern that the All H does not adequately address cultural resources.

RI pointed out that the document acknowledges that cultural resources are more than "stones and bones." The document acknowledges that fish, including but not limited to salmon, are important cultural resources. There are a variety of cultural resources issued involved in the operation of the FCRPS-from resources defined within the context of NAPA to the more broad (and holistic) concept of resources that include plants and wildlife. He expressed understanding that the tribes may be dubious of an apparent approach to these issues that only generally discusses them in the principal document to rely on specifics to be dealt with later on a case-by-case basis. The tribes are understandably doubtful that such an approach will adequately address their concerns.

Mary Verner said the tribes invested an incredible amount of time reviewing/participating in the SOR process (and before that the IDU). The SOR essentially put off responses to cultural resources responsibilities to the future, on individual project level bases. However, the tribes were not involved in the future efforts-the agencies entered into programmatic MOU on cultural resources without tribal involvement. Now it is "being tossed into the tribe's face" that the MOU

is the agency response to cultural resources protection requirements (that time for tribal input-and possible change-is past). And that response is being applied to the All H Paper/process.

Howard Funke stated that the negotiated MOU between agencies and tribes was never enforced. Federal agencies never lived up to their responsibilities.

Ric Ilgenfritz stated that in regards to the All H Paper and BiOps we need to identify the next steps to be taken and identify what issues should be addressed in a meeting with the tribal council. Howard Funke responded that any meeting on All H and the BiOps must include individuals that can speak on behalf of- NMFS, FWS, CoE, BoR, and BPA. Secondly, there is a need to discuss (both at a technical and policy level) the feasibility of developing two federal-tribal MOAs: cultural resources and river operations. Louie Wynne added that the tribes should define cultural resources and not have to rely on NAPA definition only.

Howard Funke said he believed would like, at a minimum, an agreement that addressed the protection of Spokane/Colville tribal interests and funding. He stated that this may present an opportunity to develop a template for other tribes to use. It is the tribes' contentions that the Spokane and Colville tribes are the most impacted within the basin-and the Spokanes not only lost all anadromous fish, but did not receive any impact funds.

The tribes are interested in developing a programmatic agreement on protecting tribal resources and while focusing on what can be done in the time remaining (before final decisions are made regarding the All H and BiOps).

Howard continued by saying he believed that a framework for an agreement could be developed, using the SOR as a beginning point. Such an agreement would involve the Spokane/Colville Tribes and the US and would address such items as River Operations (flow augmentation, spill, pulsing, water purchasing, etc.) in order to address the greatest impacts suffered by the tribes. The tribes are asking for an opportunity to be involved in the decision making process related the operation of the river system. The tribes want an opportunity to share their concerns about the possible impacts of such decisions-and realize that system decisions may not ultimately coincide with tribal positions. The tribes desire, therefore, is to have an opportunity to express their concerns and know what decisions are being made.

There would, therefore, be two federal-tribal agreements: river operations to participate with US decision makers; and cultural resources (broadly defined) protection.

Mary Verner stated that the Snake River EIS, DREW, Framework all failed to address Spokane tribal issues, including impacts on Lake Roosevelt. It difficult to see how the impacts on the tribes can be addressed without sufficient analysis on those impacts-which requires time and fw-ids. There are serious questions by Spokane and other upriver tribes about why the impacts on them cannot be incorporated into the analysis of the various options contemplated. Should not restrict such analysis on affects on listed fish only-need to also consider affects on tribes impacted by Grand Coulee operational decisions.

Howard Funke stated that the tribes don't have the resources to participate in the active review and participation with such large and complex activities as the All H and BiOps. This is true even though Lake Roosevelt is the largest reservoir in US that is so manipulated in order to address so many needs.

Mary Verner pointed out that harvest discussions/decisions seem to be restricted to lower river tribes-with no consideration given to Spokane Tribe. Although there are not anadromous

fish above Chief Joe and Grand Coulee, the tribe has never given up on the prospect of having salmonids in the future.

There needs to be a realization that the tribes have not given up on the return of anadromous fish, while protecting (non-listed) resident fish.

In closing, Mary Verner pointed out that the tribe does receive funding-originally to address cultural resources issues. However, because of ongoing emergency responses to impacted cultural resources virtually all the funds are used to protect exposed sites. The tribe has to respond in a virtual crisis mode, versus development of a program that allows for more comprehensive mapping, identification, and protection. Funding for that more complete program is needed.

Ric Ilgenfritz stated that follow-up to this meeting would include: 1.) Consolidation of the notes and briefing the federal agencies on the issues identified so the right federal participants will join a meeting with the Tribal Council; and 2.) Responding to the tribal chair's July 20 letter by acknowledging and recognizing the concerns expressed in the letter and stating the federal follow-up includes this meeting and planning for a future meeting(s) with the tribe (both at the technical and policy levels).